

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

RAYSHAWN HAYNES,
Plaintiff,
v.
F. CONTREAS, et al.,
Defendants.

Case No. 1:22-cv-00536-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT CERTAIN
CLAIMS AND DEFENDANTS BE
DISMISSED

(ECF Nos. 1 & 8)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

ORDER DIRECTING CLERK TO ASSIGN
DISTRICT JUDGE

Rayshawn Haynes (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983, which includes state law claims.

Plaintiff filed the complaint commencing this action on May 4, 2022. (ECF No. 1). The Court screened Plaintiff’s complaint. (ECF No. 8). The Court found that only the following claims should proceed past the screening stage: Plaintiff’s Eighth Amendment excessive force claims against defendants Cleveland, Luna, Cloud, Orozco, Chan, and Contreas and his Fourteenth Amendment claim against defendant Rodriguez for unwanted medical treatment. (*Id.*).

The Court gave Plaintiff thirty days to either: “a. File a First Amended Complaint; b. Notify the Court in writing that he does not want to file an amended complaint and instead

wants to proceed only on his Eighth Amendment excessive force claims against defendants Cleveland, Luna, Cloud, Orozco, Chan, and Contreas and his Fourteenth Amendment claim against defendant Rodriguez for unwanted medical treatment; or c. Notify the Court in writing that he wants to stand on his complaint.” (*Id.* at 14). On August 22, 2022, Plaintiff filed what the Court construes as a notice that he wants to proceed only on the claims that the Court found should proceed past screening. (ECF No. 9).¹

Accordingly, for the reasons set forth in the Court’s screening order that was entered on July 27, 2022 (ECF No. 8), and because Plaintiff has notified the Court that he wants to proceed only on the claims that the Court found should proceed past screening (ECF No. 9), it is **HEREBY RECOMMENDED** that all claims and defendants be dismissed, except for Plaintiff’s Eighth Amendment excessive force claims against defendants Cleveland, Luna, Cloud, Orozco, Chan, and Contreas and his Fourteenth Amendment claim against defendant Rodriguez for unwanted medical treatment.

These findings and recommendations will be submitted to the United States district judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these findings and recommendations, Plaintiff may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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¹ At times Plaintiff’s response is difficult to understand. Plaintiff appears to state that he wants to proceed only on his Eighth Amendment claims, but the Court also found that his Fourteenth Amendment claim against defendant Rodriguez for unwanted medical treatment should proceed past screening. Accordingly, at this time, the Court will allow the case to proceed on both the Eighth Amendment claims and the Fourteenth Amendment claim. If Plaintiff does not want to proceed on his Fourteenth Amendment claim, Plaintiff may file a notice of voluntary dismissal of this claim pursuant to Federal Rule of Civil Procedure 41.

IT IS SO ORDERED.

/s/ Eric P. Grogg
UNITED STATES MAGISTRATE JUDGE